

ORDINANCE NO. 08-38

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 33. NBD NEIGHBORHOOD BUSINESS DISTRICT, OF THE CODE OF ORDINANCES, BY REVISING HIALEAH CODE § 98-1627 ENTITLED "PURPOSE" TO DELETE INDUSTRIAL LAND USE CLASSIFICATIONS FROM THE NBD DISTRICT IN ORDER TO BE CONSISTENT WITH TEXT AMENDMENTS TO THE HIALEAH, FLA., COMPREHENSIVE PLAN 2003-2015 ADOPTED IN 2007; BY REVISING HIALEAH CODE § 98-1630.8 ENTITLED "LIMITED EXPANSION OF NBD OVERLAY DISTRICT REGULATIONS SUBJECT TO SPECIAL USE PERMITS" TO ELIMINATE INDUSTRIAL LAND USE CLASSIFICATION FROM ELIGIBLE NBD DEVELOPMENT REGARDING ACTIVITY NODE AREAS; AND BY REVISING HIALEAH CODE § 98-1630 ENTITLED "PRECEDENCE OVER OTHER LAND USE AND ZONING REGULATIONS" BY REMOVING INDUSTRIAL ZONING DISTRICTS AND CLARIFYING LANGUAGE RELATING TO EXISTING USES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of April 9, 2008 recommended approval of this ordinance; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the primary purpose of this ordinance is to amend the zoning regulations to be consistent with the Hialeah, Fla., Comprehensive Plan 2003-2015 amended pursuant to Hialeah, Fla., Ordinance 07-72 (Aug. 30, 2007), which applied the NBD regulations to properties that have a land use classification of commercial, medium density residential or high density residential; and

WHEREAS, an additional purpose of this ordinance is to clarify language so that it is

clearly understood that the NBD regulations apply and supersede existing zoning regulations only in circumstances where the applicant seeks to expand the uses of the property through the NBD zoning district regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, Division 33. NBD Neighborhood Business District, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended to read as follows:

Chapter 98

ZONING

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ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 33. NBD NEIGHBORHOOD BUSINESS DISTRICT

Sec. 98-1627. Purpose.

The purpose of the NBD neighborhood business district is to provide mixed residential, retail, office and/or service-oriented uses that promote and encourage pedestrian access and regular use. The criteria and incentives provided herein do not apply to single-use buildings, but such criteria and incentives may apply to mixed-used buildings following the guidelines provided in the NBD district urban design plan that satisfy the each of the following requirements:

- (1) The property is located within an activity node within the NBD overlay district;
- (2) The property has a land use classification of commercial, industrial, medium density, residential or high density

residential; and

(3) A vertical mix of uses.

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Sec. 98-1630. Precedence over other land use and zoning regulations.

To the extent that any conflict or difference may arise between the criteria of this district and the criteria of the C-1, C-2 and C-3 commercial zoning districts, ~~M-1, M-2 and M-3 industrial zoning districts~~, and multiple family residential zoning districts, the requirements of the NBD overlay zoning district shall prevail. The NBD zoning district regulations take precedence only if the property owner develops the property according to the expanded uses that are available in the NBD district. This section does not affect a property owner from developing its property according the current zoning regulations of the zoning district designation for the property.

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Sec. 98-1630.8. Limited expansion of NBD overlay district regulations subject to special use permits.

NBD overlay district regulations may extend, subject to a grant of a special use permit by ordinance, to properties that are activity node areas, having a land use classification of commercial, medium density residential, or high density residential ~~or industrial~~, situated on a corner with a minimum site area of 20,000 square feet and with a minimum street footage of 200 feet facing at least one right-of-way. The limited expansion of the NBD overlay district regulations shall not apply to any activity node areas within the Hialeah Racetrack as described hereinabove.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

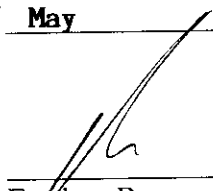
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 13th day of May, 2008.

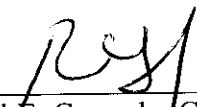
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



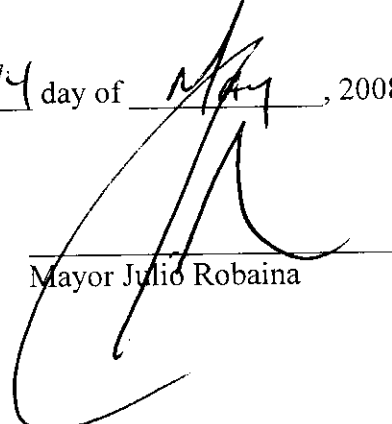
Esteban Bovo
Council President

Attest:

Approved on this 14 day of May, 2008.

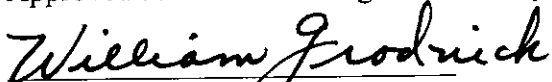


Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".